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PART III

Notifications by High Court, Advertisement, Notices and Change of Name etc.

THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Notification

The 16th September, 2020

The Haryana Real Estate Regulatory Authority, Gurugram (Auto credit of 10% of receipts from the separate RERA account maintained under section 4(2)(I)(D)), Regulations, 2020

No. 19/RERA GGM Regulations 2020.- In exercise of the powers conferred on it under Section-85 of the Real Estate (Regulations and Development) Act, 2016 and all other powers enabling it in that behalf the Haryana Real Estate Regulatory Authority, Gurugram hereby makes the following regulations: -

Short Title, Object, Commencement and Extent:

1. (a) These Regulations may be called The Haryana Real Estate Regulatory Authority, Gurugram, (Auto credit of 10% of receipts from the separate RERA account maintained under section 4(2)(I)(D)) Regulations, 2020.
- (b) These Regulations are meant to augment, strengthen and further stream line the EDC recovery mechanism, by exploring all available existing statutory mechanisms, one of the options that have emerged is to ensure auto-debit of funds from the '70% realizations account' maintained under section 4(2)(I)(D) of the Real Estate (Regulation and Development) Act, 2016 and auto credit into EDC head of state treasury against license obtained from Director Town & Country Planning Department, Haryana by such colonizers who have been granted license under the Haryana Development and Regulation of Urban Areas Act, 1975 and have got registration of the project under the Real Estate (Regulation and Development) Act, 2016 by the Haryana Real Estate (Regulation and Development) Rules, 2017;
- (c) These Regulations will come into force on the date of their notification in the Official Gazette;
- (d) These Regulations shall apply to all registered projects falling within the jurisdiction of the Haryana Real Estate Regulatory Authority, Gurugram as notified by the State Government of Haryana *vide* its Notification No. 1/92/2017-1 TCP dated 14. 12. 2017 which comprises entire area of Gurugram District.

Definitions

2. (a) Unless the context otherwise requires in these regulations: -
 - (i) "Act" means the Real Estate (Regulations and Development) Act, 2016 as amended from time to time;
 - (ii) "Authority" means the Haryana Real Estate Regulatory Authority, Gurugram;
 - (iii) "Chairperson" means the Chairperson of the Real Estate Regulatory Authority, Gurugram;
 - (iv) "Director" means Director, Town and Country Planning, Government of Haryana;
 - (v) "Member" means a member of the Authority;

- (vi) "Proceedings" means and include proceedings of all nature that the Authority may conduct in discharge of its functions under the Act and the Rules and the Regulations;
- (vii) "Regulations" means the Haryana Real Estate Regulatory Authority, Gurugram (Auto credit of 10% of receipts from the separate RERA account maintained under section 4(2)(l)(D)) Regulations, 2020 as amended from time to time;
- (viii) "Rules" means the Haryana Real Estate Regulatory Authority Rules, 2017 as amended from time to time;
- (ix) "Development works" means the external development works and internal development works on immovable property; (as given in section 2(t) of the Real Estate (Regulations and Development) Act, 2016) also "Development works" means internal and external development works; (as given in section 2(e) of Haryana Development and Regulation of Urban Areas Act, 1975).
- (x) "External development works" includes roads and road systems landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws; (as given in section 2(w) of the Real Estate (Regulations and Development) Act, 2016) also "External development works" shall include any or all infrastructure development works like water supply, sewerage, drains, provisions of treatment and disposal of sewage, sullage and storm water, roads, electrical works, solid waste management and disposal, slaughter houses, colleges, hospitals, stadium/sports complex, fire stations, grid sub-stations etc. and/or any other work which the Director may specify to be executed in the periphery of or outside colony/area for the benefit of the colony/area; (as given in section 2(g) of Haryana Development and Regulation of Urban Areas Act, 1975).
- (xi) "Internal development works" means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal, water conservation, energy management, fire protection and fire safety requirements, social infrastructure such as education health and other public amenities or any other work in a project for its benefit, as per sanctioned plans; (as given in section 2(zb) of the Real Estate (Regulations and Development) Act, 2016) also "Internal development works" means –
 - (i) metalling of roads and paving of footpaths;
 - (ii) turfing and plantation with trees of open spaces;
 - (iii) street lighting;
 - (iv) adequate and wholesome water supply;
 - (v) sewers and drains both for storm and sullage water and necessary provision for their treatment and disposal; and
 - (vi) any other work that the Director may think necessary in the interest of proper development of a colony;
 (as given in section 2(i) of Haryana Development and Regulation of Urban Areas Act, 1975).
- (b) The words or expressions occurring in these Regulations and not defined herein but defined in the Act or the Rules shall bear the same meanings as assigned to them in the Act and the Rules;

Background: Power of the appropriate government to issue directions to authority and obtain reports and returns under section 83 of the Real Estate (Regulations and Development) Act, 2016.

3. Principal Secretary to Government of Haryana, Town and Country Planning Department, Haryana, Chandigarh *vide* Memo No. Misc.-BG(EDC)-202/2020/3676 in exercise of the powers conferred under section 83(1) of the Act of 2016, as well as the powers conferred under section 9A of the Act of 1975, following directions were issued.

- (i) The Director shall ensure that the following clause is added in the bilateral agreement to be entered into with the colonizers at the time of grant of all licenses under the Act of 1975, in future:
 - “(a) That, against each licence, the coloniser shall integrate its bank account in which 70% allottee receipts are credited under section 4(2)(l)(D) of the Real Estate (Regulations and Development) Act, 2016 with the online applications/ payment gateway of the department, in such manner, so as to ensure that 10% of the total receipts from each payment made by an allottee is automatically deducted and gets credited to the EDC head in the state treasury.

- (b) Such 10% of the total receipts from each payment made by an allottee, which is received by the department shall get automatically credited, on the date of receipt in government treasury against EDC dues of the concerned licence of the colonizer.
- (c) Such 10% deduction shall continue to operate till the total EDC dues get recovered from the colonizer against the said licence.
- (d) The implementation of such mechanism shall, however, have no meaning on the EDC instalment schedule conveyed to the coloniser. The coloniser shall continue to supplement such automatic EDC deductions with payments from its own funds to ensure that the EDC instalments that are due for payment get paid as per prescribed schedule.”
- (ii) The authority under the Act of 2016 shall ensure the implementation of above through issuance of necessary directives, obtaining periodic reports etc. and also ensure regular monitoring of the said mechanism to ascertain the implementation of the same in letter and spirit.
- (iii) These directions are issued as per the approval given by Council of Ministers in its meeting held on 06.07.2020 and conveyed *vide* U.O. No. 9/107/2020-2 Cabinet dated 06.07.2020.

Directions to the builder/promoter with regard to opening of bank accounts as per provision of RERA.

4. These directions called “the Haryana Real Estate Regulatory Authority, Gurugram Bank Accounts for the registered projects Directions, 2019” are issued *vide* Memo No. 1/RERA GGM Directions 2019 dated 10th May, 2019.

Need for regulations to implement decision of the Government.

5. There is no provision for such auto debit of funds from the 70% realizations account maintained under section 4(2)(I)(D) of the Real Estate (Regulations and Development) Act, 2016 and also in the directions mentioned at regulation no. 4 above. Accordingly, these regulations to implement the directions of the Government as provided in regulation no. 3 above are issued.

Authorization to the bank to debit 10% of the total receipts from each payment made by an allottee and kept in separate RERA account maintained under section 4(2)(I)(D) of the Real Estate (Regulations and Development) Act, 2016 and auto-credit into EDC head of State treasury against real estate project.

6. The colonizer shall integrate its separate RERA account in which 70% allottee receipts are credited under section 4(2)(I)(D) of the Real Estate (Regulation and Development) Act, 2016 with the online application/payment gateway of the department, in such manner, so as to ensure that 10% of the total receipts from each payment made by an allottee is automatically deducted and gets credited to the EDC head in the State treasury, such 10% deduction shall continue to operate till the total EDC dues get recovered from the colonizer against the said license.

Monitoring and implementation

- 7. The promoter shall give statement of such credit made to the EDC head in the State treasury in quarterly progress report to be submitted to the Authority within 15 days of the end of each quarter.
- 8. The promoter shall also give statement of such credit made to the EDC head in the State treasury in the Annual Report to be submitted in compliance of provisions of section 4(2)(I)(D) of the Real Estate (Regulations and Development) Act, 2016.
- 9. The promoter shall also give a statement of EDC clearly indicating total EDC payable for the project, EDC payment made up till end of the quarter and EDC payment remained at the end of the quarter and details of instalment paid and to be paid till end of the quarter.
- 10. The Accounts Officer of the authority in consultation with Accounts Executive monitoring reports submitted in compliance of provision of section 4(2)(I)(D) of the Real Estate (Regulations and Development) Act, 2016 shall ensure that these directions are complied with by the promoters and in case of any deviation or non-compliance same shall be reported to the authority for taking corrective measures and/or initiating penal proceedings against the defaulters.

(Sd.) ...,
Secretary,
for Haryana Real Estate Regulatory Authority,
Gurugram.